



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. J. Wilde
County Auditor
Nueces County
Corpus Christi, Texas

Dear Sir:

Opinion No. 0-822

Re: Whether accounts in the county depository in the names of the various county officials are covered by the bond of the county depository during the time such bonds are so deposited.

Your request for an opinion on the following question:

"Would the accounts in the name of the various county officials be covered by the bond of the county depository during the time such funds are held under the personal names of such officials and that of the office they are holding, or is the account considered to be a personal account until such time as check for the monthly collection is turned over to the Auditor's office together with their monthly report?"

has been received by this office.

Undoubtedly, it was primarily the object of the legislature of the State of Texas, in requiring that the Commissioners' Court of each county in the State of Texas select a depository, and in turn to require that such depository make bond payable to the County Judge and his successors in office, to protect funds collected by the county officials of various counties.

Section 4 of Article 3912e of the Revised Civil Statutes, provides as follows:

"In all counties of this state containing a population of less than 190,000 inhabitants according to the last preceding Federal Census, wherein the county or precinct officers are compensated on a salary basis under the provisions of this Act,

there shall be created a fund to be known as the Officers' Salary Fund of _____ County, Texas. Such fund shall be kept separate and apart from all other county funds, and shall be held and disbursed for the purpose of paying the salaries of officers and the salaries of deputies, assistants and clerks of officers who are drawing a salary from said fund under the provisions of this Act, and to pay the authorized expenses of their offices. Such fund shall be deposited in the county depository and shall be protected to the extent as other county funds."

It would seem, that in order to get the protection that you are entitled to under the law, by reason of having selected a county depository in the manner required by law, all fees and commissions which are permitted by law to be assessed and collected, and which are collected by the various officials of the county should, as collected, be deposited in the Officers' Salary Fund in the county depository.

In this connection, we call your attention to Section 5 of Article 3912e of the Revised Civil Statutes of the State of Texas, which reads as follows:

"It shall be the duty of all officers to charge and collect in the manner authorized by law all fees and commissions which are permitted by law to be assessed and collected for all official services performed by them. As and when such fees are collected they shall be deposited in the Officers' Salary Fund, or funds provided in this Act. In event the Commissioners' Court finds that the failure to collect any fee or commission was due to the neglect on the part of the officer charged with the responsibility of collecting the same, the amount of such fees or commissions shall be deducted from the salary of such officer. . . ."
(Underscoring ours)

In view of Section 5 of the Article above quoted it is our opinion that all moneys collected by various county officials, should, as and when collected, be deposited in the various funds to which they rightfully belong, in the county depository.

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Section 4 of Article 3912e, provides that the Officers' Salary Fund shall be deposited in the county depository and further provides that it shall be protected to the same extent as other county funds. We find no provision for the protection of funds collected by officials of the county which are deposited in their own name, insofar as the protection afforded by the county depository bond is concerned, during the time such funds are retained by such officials.

It is therefore, our opinion that the accounts in the names of the various county officials are not protected by the bond of the county depository.

Trusting that this answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Fred C. Chandler*
Fred C. Chandler
Assistant

FCC:jn



APPROVED JUN 27, 1939

Gerard C. Mann
ATTORNEY GENERAL OF TEXAS